

COPY

Approved: Lauren Schorr
LAUREN SCHORR
Assistant United States Attorney

Before: HONORABLE JUDITH C. MCCARTHY
United States Magistrate Judge
Southern District of New York

- - - - - x (4 mag 882
UNITED STATES OF AMERICA : SEALED COMPLAINT
: Violation of
- v. - : 18 U.S.C. §§ 641 and
: 666(a)(1)(A)
CARL IMMICH, : COUNTY OF OFFENSE:
Defendant. : DUTCHESS
- - - - - x

SOUTHERN DISTRICT OF NEW YORK, ss.:

PAUL ZAMMIT, JR., being duly sworn, deposes and says that he is a Special Agent with the United States Department of Housing and Urban Development ("HUD"), Office of the Inspector General ("OIG"), and charges as follows:

COUNT ONE

1. From at least in or about December 2010, until at least in or about March 2015, in the Southern District of New York and elsewhere, CARL IMMICH, the defendant, being an agent of an organization that received, in a one year period, benefits in excess of \$10,000 under a federal program involving a grant, contract, subsidy, loan, guarantee, insurance, and other form of federal assistance, to wit, Harriet Tubman Terrace Apartments ("Tubman Terrace"), did embezzle, steal, and obtain by fraud, and otherwise without authority did knowingly convert to the use of a person other than the rightful owner and did intentionally misapply, property that was valued at \$5,000 and more that was owned by and was under the care, custody, and control of such organization, to wit, IMMICH, as management agent and property manager of Tubman Terrace, fraudulently obtained hundreds of thousands of dollars belonging to Tubman Terrace, which funds were fraudulently paid to IMMICH and/or used for personal expenditures.

(Title 18, United States Code, Section 666(a)(1)(A).)

COUNT TWO

2. From at least in or about December 2010, until at least in or about March 2015, in the Southern District of New York and elsewhere, CARL IMMICH, the defendant, did embezzle, steal, purloin, and knowingly convert to his own use and the use of another, vouchers, money and things of value of the United States and a department and an agency thereof, to wit, the United States Department of Housing and Urban Development, which exceeded the sum of \$1,000, to wit, IMMICH, as management agent and property manager of Tubman Terrace, fraudulently obtained hundreds of thousands of dollars belonging to Tubman Terrace, which funds were improperly paid to IMMICH and/or used for personal expenditures.

(Title 18, United States Code, Section 641.)

The bases for my knowledge and the foregoing charges are, in part, as follows:

3. I am a Special Agent with HUD OIG and I have been personally involved in the investigation of this matter. I have been involved in investigations involving the embezzlement and theft of government funds, including the embezzlement and theft of rent payments owed to HUD. This affidavit is based upon my own observations, conversations with other law enforcement agents and others, and my examination of reports and records prepared by others. Because this affidavit is being submitted for the limited purpose of establishing probable cause, it does not include all the facts that I have learned during the course of my investigation. Where the contents of documents and the actions, statements, and conversations of others are reported herein, they are reported in substance and in part, except where otherwise expressly indicated.

4. Based on my investigation of this matter, including my review of bank records, credit card statements, and Tubman Terrace business records, which were obtained, in part, pursuant to a search warrant of Tubman Terrace's management company's office, which is located at Tubman Terrace, as well as my interviews of several witnesses, I have learned that from in or about December 2010 through at least in or about March 2015, CARL IMMICH, the defendant, embezzled, stole, and otherwise

illegally converted for his own personal use hundreds of thousands of dollars of funds distributed to Tubman Terrace by HUD. IMMICH did so through at least three different schemes: (1) IMMICH used credit cards intended to be used for Tubman Terrace business expenses for personal expenses, which were then paid through Tubman Terrace's operating bank account (the "Tubman Terrace Bank Account"); (2) IMMICH obtained check payments from the Tubman Terrace Bank Account to cover other personal expenses; and (3) IMMICH obtained payroll checks for himself and his daughter reflecting no work or other entitlement by them to such salary.

Background of Tubman Terrace and the Management Company

5. Based on my review of records maintained by Tubman Terrace and HUD, and my interviews of employees and board members of Tubman Terrace, I have learned the following about Tubman Terrace:

a. Tubman Terrace is a large low-income apartment complex in Poughkeepsie, New York. There are approximately 200 apartments in Tubman Terrace. The rental payments for nearly all of the apartments are subsidized by HUD pursuant to Section 8 of the United States Housing Act of 1937, 42 U.S.C. § 1437f.

b. Tubman Terrace is owned by a not-for-profit entity (the "Owner") that was created by two Poughkeepsie-area churches. Its Board of Directors (the "Board") includes individuals typically affiliated with one church or the other.

c. HUD funds are distributed to and by Tubman Terrace, in part, as follows: (1) Tubman Terrace submits to HUD vouchers for rental payments owed by eligible tenants; (2) HUD makes subsidized rental payments to Tubman Terrace, depositing the funds into the Tubman Terrace Bank Account; (3) the funds paid by HUD to Tubman Terrace are used to pay Tubman Terrace's bills, as well as to pay the Management Company's fees, discussed below; and (4) if there are leftover funds after payment of bills and the management fee, disbursement of those funds are subject to certain restrictions arising from the Owner's not-for-profit status and agreements with HUD.

d. Based on my review of records for the Tubman Terrace Bank Account, I have learned that, from in or about June 2010, through in or about November 2014, HUD provided approximately \$150,000 to \$160,000 each month to Tubman Terrace.

6. Based on my review of records maintained by Tubman Terrace and HUD, and my interviews of employees and board members of Tubman Terrace, I have learned the following about CARL IMMICH, the defendant:

a. Since in or about 2009, Tubman Terrace has been managed by a management company (the "Management Company"). IMMICH has been the principal and sole owner the Management Company since approximately 2009.

b. IMMICH has served as the management agent and property manager of Tubman Terrace since in or about 2009. As the property manager, IMMICH is responsible for the day-to-day management of Tubman Terrace. IMMICH works at Tubman Terrace and maintains an office at Tubman Terrace. IMMICH is employed full-time at Tubman Terrace, but from approximately 2009 through 2014, IMMICH was typically at Tubman Terrace for approximately 8 to 10 hours per week.

c. Pursuant to HUD regulations, as well as an agreement between the Owner and the Management Company, IMMICH's compensation is comprised of a management fee of 6% of the rental income collected at Tubman Terrace. For the years 2010 through 2014, IMMICH received approximately \$150,000 per year in management fees.

d. IMMICH also received a yearly salary of approximately \$85,000 from in or about 2008 up to and including in or about March 2014.

7. Based on my review of records maintained by Tubman Terrace and HUD, and my interviews of employees and Board members of Tubman Terrace, I have learned the following about the Tubman Terrace's distribution of funds received from HUD:

a. Tubman Terrace's routine bills are paid by checks drawn on funds from the Tubman Terrace Bank Account. A bookkeeper handles the processing of these payments, including by printing checks payable to the entities billing Tubman Terrace.

b. IMMICH had control over the Tubman Terrace Bank Account until approximately December 2014. IMMICH had authority to sign checks less than \$5,000 alone, and any check greater than \$5,000 required an additional authorized signature.

c. The Management Company also had two credit cards—one in the name of IMMICH, and one in the name of the Tubman Terrace (the "Tubman Terrace Credit Cards"). The credit cards were for use for payment of business expenses of Tubman Terrace. Payments of the credit card bills were made using HUD funds from the Tubman Terrace Bank Account. IMMICH carried and used the Tubman Terrace Credit Cards.

The Credit Cards Scheme

8. I have reviewed records related to the Tubman Terrace Credit Cards. Based on my review, I have learned that from on or about December 9, 2010 through on or about March 9, 2015, there were approximately \$512,752 in charges on the Credit Cards. Approximately \$254,829 of those charges were paid with funds from the Tubman Terrace Bank Account.

9. Based on my review of records relating to the Tubman Terrace Credit Cards, and my interviews of employees of Tubman Terrace, I have learned that CARL IMMICH, the defendant, used the Tubman Terrace Credit Cards for both personal and business expenses.

10. I have spoken to an employee of Tubman Terrace who is familiar with the books and records of Tubman Terrace. Based on our discussions, I have learned that CARL IMMICH, the defendant, handwrote notes on the itemized monthly statements for the Credit Cards to indicate whether expenses were his (for which he wrote "me") or Tubman Terrace's (for which he wrote "Tubman").

11. I have obtained and reviewed itemized monthly statements of the Credit Cards of Tubman Terrace described in Paragraph 8 during the period of December 2010 through 2014. I have learned that CARL IMMICH, the defendant, claimed numerous personal expenses as business expenses (for which he wrote "Tubman"), and thereby caused his personal expenses to be paid with funds from the Tubman Terrace Bank Account. IMMICH claimed as business expenses, for example:

e. charges from numerous restaurants, such as Texas Roadhouse, Savonas Trattoria, Red Lobster, Cosimos Trattoria, and Coyote Grill;

f. charges from Lowe's and Home Depot at store locations that are closer to IMMICH's home than Tubman Terrace,

and that are different than the bills paid from the Tubman Terrace Bank Account to Lowe's and Home Depot for Tubman Terrace's expenses at those stores; and

g. charges for gas at gas stations approximately thirty to fifty miles away from Tubman Terrace and in the vicinity of IMMICH's home.

12. Based on my review of the Tubman Terrace Credit Cards' statements, I have learned that, in 2012, for example, there were approximately \$116,591 in total charges on one of the Credit Cards. At least \$85,000 of those charges was paid with funds from the Tubman Terrace Bank Account. For the months of January 2012 through September 2012 and November 2012, the entirety of the Credit Card's bills was paid with funds from the Tubman Terrace Bank Account. The charges in 2012 included non-business related expenses, such as: approximately \$51,172 at retail stores, including approximately \$8,000 in January 2012 (e.g., Chic Boutique and Planet Fitness); approximately \$9,961 at restaurants (e.g., TGI Fridays, Crew, Shadows on the Hudson, Cosimos Trattoria, Osaka Japanese); approximately \$3,597 in airfare, including approximately \$2,843 in February, June, and August; and approximately \$3,519 at hotels, including approximately \$2,239 in February 2012 through April 2012 and June 2012 through September 2012.

The Operating Account Scheme

13. I have obtained and reviewed bank records for the Tubman Terrace Bank Account for the time period of on or about April 30, 2010 through on or about December 31, 2014. Based on my review, I have learned that checks totaling more than \$300,000 were drawn on the funds of the Tubman Terrace Bank Account to make payments for the personal benefit of CARL IMMICH, the defendant. The checks were signed by IMMICH. They included the following:

a. checks to individuals whom I have learned are IMMICH's or his family's dentist (\$1,808) and orthodontist (\$2,706);

b. checks for personal phone bills of IMMICH and others associated with IMMICH (approximately \$19,214);

c. checks to horse stables (approximately \$425);

- d. checks to "Carl Immich" (approximately \$59,962);
- e. checks to "Cash" (approximately \$52,450);
- f. checks to approximately eight employees of Tubman Terrace, during which time those employees were salaried employees at Tubman Terrace (whose salary, along with all other employee wages was paid separately) (approximately \$46,000 in total); and
- g. checks to IMMICH's daughter (approximately \$12,134).

The Payroll Scheme

14. Based on my interviews of employees of Tubman Terrace, I have learned that Tubman Terrace used a payroll servicing company to assist with payroll distributions. One payroll company was used from in or about 2008 through on or about March 31, 2014 ("Payroll Company-1"). Since then, Tubman Terrace has used a new payroll company ("Payroll Company-2"). All overtime is also paid through the payroll servicing companies. Payroll for Tubman Terrace employees is paid from the Tubman Terrace Bank Account, and funds are specifically allocated for that purpose.

15. I have reviewed payroll records obtained from Payroll Company-1 for the period of 2010 through on or about March 31, 2014, and I have learned that IMMICH has obtained payroll payments for himself and others to which they were not entitled. For example:

a. From in or about 2011 through on or about March 31, 2014, IMMICH's daughter was paid a total salary of approximately \$30,000, during which time she did not work at Tubman Terrace.

b. From in or about 2010 through in or about 2013, IMMICH was paid, via Payroll Company-1, payroll payments that exceeded his salary. For instance, in or about 2013 through on or about March 31, 2014, IMMICH was paid, via Payroll Company-1, approximately \$128,000. This reflected an excess of approximately \$43,000 above his salary, which excess resulted from IMMICH's claiming and being paid for twenty-six weeks of vacation to which he was not entitled.

WHEREFORE, deponent prays that a warrant be issued for the arrest of CARL IMMICH, the defendant, and that he be arrested and detained, or bailed, as the case may be.

Paul Zammit Jr.
PAUL ZAMMIT, JR.
Special Agent
U.S. Department of Housing and Urban
Development, Office of the Inspector
General

Sworn to before me this
8 day of February, 2016

Judith C. McCarthy
THE HONORABLE JUDITH C. MCCARTHY
United States Magistrate Judge
Southern District of New York